IN THE HIGH COURT OF BOMBAY AT GOA
****

FIRST APPEAL NO. 292 OF 2002

Corporation Bank, a Banking Company incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act 1980 having its registered office at Mangalore and a Branch Office at Panaji. ...Appellant.

Versus

1. Mr. Krishna Kumar Oza, c/o Govt. Circuit House, Altinho, Panaji,

2. Mr. Ngesh Manohar Naik Gaunekar, Rajinwada, Gaunem, Bandora, Ponda, Goa, and

3. Mr. Sant Kumar Oza, c/o Circuit House, Altinho, Panaji. ...Respondents.

Shri G. K.Tamba, advocate for the appellant.

Shri J. Godinho, advocate for respondent no.1.

CORAM : F. I. REBELLO, J.

DATE : 5th June, 2003.

ORAL ORDER

Heard forthwith. Record and proceedings are before this Court. The limited challenge is to the awarding of interest.

It is the case of the Appellant Bank that it is entitled to contractual rate of interest in terms of the documents, whereas the trial Court has awarded only 6% interest. Even if Section 34 of the Code of Civil Procedure is considered in case of agreement between the

parties or commercial transaction, the appellant would be entitled to commercial rate of interest.

2. Though the Bank had given a loan at a particular rate of interest, the rates have been fluctuating from time-to-time, depending upon the directions issued by the Reserve Bank of India under the Banking Regulation Act. In these circumstances, it was open to the appellant to establish the various rates of interest that they would be entitled to get and more so specifically at the time of filing of the suit. However, taking an overall view of the matter and considering the rate of interest as now prevailing and what the appellant would be entitled to, the judgment and order is partly modified inasmuch as the of sum of Rs.2,16,232/- will carry interest at 9% per annum from the date of the suit till realization. The Judgment and Order dated 19th July, 2002, stand modified to this extent. Accordingly, Decree to be amended accordingly.

3. The First Appeal stands disposed of with no order as to costs.

F. I. REBELLO, J.

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